

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

NORTH IDAHO COMMUNITY
ACTION NETWORK, a non-profit
organization, et al.

Plaintiffs,

v.

ANTHONY J. HOFMANN, in his
official capacity as District
Commander, U.S. Army Corps of
Engineers' Walla Walla District;
STEVEN R. MILES, in his official
capacity as Commander and
Division Engineer, U.S. Army Corps
of Engineers' Northwest Division;
ROBERT VAN ANTWERP, in his
official capacity as Commander and
Chief Engineer, U.S. Army Corps of
Engineers; and the U.S. ARMY
CORPS OF ENGINEERS,

Defendants,

v.

IDAHO TRANSPORTATION
DEPARTMENT,

Applicant for Intervention.

NO. CV-08-5002-RHW

**ORDER GRANTING IDAHO
TRANSPORTATION
DEPARTMENT'S MOTION TO
INTERVENE AS DEFENDANT,
AND GRANTING
DEFENDANTS' MOTION TO
CHANGE VENUE TO THE
DISTRICT OF IDAHO**

Before the Court is Idaho Transportation Department's Motion to Intervene (Ct. Rec. 8), and Defendants' Motion to Change Venue to the District of Idaho (Ct. Rec. 15). The motions were heard without oral argument.

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1 **I. Motion to Intervene**

2 The Idaho Transportation Department (ITD) seeks intervention pursuant to
3 Federal Rules of Civil Procedure 24. The motion is unopposed, and the Court
4 finds good cause to grant ITD's Motion to Intervene.

5 **II. Motion to Change Venue**

6 Defendants request that the case be transferred to the District of Idaho in the
7 interest of justice and convenience under 28 U.S.C. § 1404(a). The decision to
8 transfer is in the Court's discretion, and the Court may consider multiple factors in
9 assessing whether to change venue where a case may legally be brought in more
10 than one district. *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498-99 (9th Cir.
11 2000). These factors include: "(1) the location where the relevant agreements were
12 negotiated and executed; (2) the state that is most familiar with governing law; (3)
13 the plaintiff's choice of forum; (4) the respective parties' contacts with the forum;
14 (5) the contacts relating to the plaintiff's cause of action in the chosen forum; (6)
15 the differences in the costs of litigation in the two forums; (7) the availability of
16 compulsory process to compel attendance of unwilling non-party witnesses, and
17 (8) the ease of access to sources of proof." *Id.* Relevant public policy is also a
18 significant factor. *Id.* at 499.

19 Furthermore, the Supreme Court of the United States has created a list of
20 "private interest factors" and a list of "public interest factors" to guide trial courts
21 in weighing convenience to the litigants and convenience to the public,
22 respectively. *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 241 (1981) (citation
23 omitted). The private interest factors include: "(1) the relative ease of access to
24 sources of proof; (2) availability of compulsory process for attendance of
25 unwilling, and cost of obtaining attendance of willing, witnesses; (3) possibility of
26 view of premises . . . ; and (4) all other practical problems that make trial of a case
27 easy, expeditious and inexpensive." *Id.* The public interest factors are: "(1)

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1 administrative difficulties flowing from court congestion; (2) the ‘local interest in
2 having localized controversies decided at home’; (3) the interest in having the trial
3 of a diversity case in a forum that is at home with the law that must govern the
4 action; (4) the avoidance of unnecessary problems in conflict of laws, or in the
5 application of foreign law; and (5) the unfairness of burdening citizens in an
6 unrelated forum with jury duty.” *Id.* The Court has discretion in determining how
7 to apportion weight to the relevant factors. *Id.*; *Jones*, 211 F.3d at 498.

8 The Court finds that the District of Idaho is the more appropriate forum
9 under the factors. While the case may technically be brought in the Eastern
10 District of Washington or in the District of Idaho under 28 U.S.C. § 1391(e), the
11 litigation and outcome of the case will mainly affect Idaho residents, and the case
12 should be transferred in the interest of justice. The community of Sandpoint,
13 Idaho, has a legitimate interest in having local cases decided at home. The
14 highway project only affects Idaho, not Washington, and the land in question is
15 located solely within Idaho. In addition, the District of Idaho has the authority to
16 assign the case to Coeur d’Alene, Idaho, which is only forty-five miles from
17 Sandpoint. The Coeur d’Alene forum is the most convenient for a majority of
18 witnesses and litigants. Coeur d’Alene also promotes ease in the access of proof.
19 Furthermore, Intervenor ITD is located in Idaho, and a related case between
20 Plaintiffs and ITD has already been decided in the District of Idaho.

21 Plaintiffs’ authority for filing the case in the Eastern District of Washington
22 is hinged on Defendants’ residency and agency location in Walla Walla,
23 Washington. If the case remained in this district, it would be assigned to Richland,
24 Washington, which is 60 miles from Walla Walla, as opposed to Spokane,
25 Washington, which is 160 miles from Walla Walla. Richland is 220 miles from
26 Sandpoint. The Richland forum would inconvenience Plaintiffs and witnesses, and
27 it is removed from the local Idaho community and highway project. Neither

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1 Spokane nor Richland is convenient or has any substantial connection to the case.

2 The Court finds that the District of Idaho, and in particular the forum of
3 Coeur d'Alene, is the most practical and convenient place to hear the case.

4 Regardless of where in Idaho the District of Idaho assigns the case, the District of
5 Idaho is still the better forum as the highway project affects Idaho residents, and
6 this case's outcome has little relevance to the affairs of the State of Washington.

7 Accordingly, **IT IS HEREBY ORDERED:**

8 1. ITD's Motion to Intervene (Ct. Rec. 8) is **GRANTED**.

9 2. Defendants' Motion to Change Venue (Ct. Rec. 15) is **GRANTED**.

10 3. The District Court Executive shall transfer the case to the District of
11 Idaho and close the file.

12 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
13 Order, forward copies to counsel, and close the file.

14 **DATED** this 21st day of April, 2008.

15 *S/ Robert H. Whaley*

16 **ROBERT H. WHALEY**
17 Chief United States District Judge
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